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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations
(Ankeny and West Des Moines, Iowa)

MM Docket No. 95-108
RM-8631

DOCKET FILE COPY ORIGINAL

To: The Chief,
Allocations Branch,
Policy and Rules Division,
Mass Media Bureau
Stop Code 1800D5

COMMENTS

Fuller-Jeffrey Broadcasting Corporation of Greater Des Moines ("Fuller-Jeffrey"), by its undersigned attorney and in accordance with Section 1.420 of the Commission's Rules and Regulations, 47 C.F.R. § 1.420 (1994), hereby respectfully submits these Comments (the "Comments") in response to the Notice of Proposed Rulemaking in the above-captioned proceeding, DA 95-1475, adopted on June 29, 1995 and released on July 14, 1995, 10 FCC Rcd ____, 60 Fed. Reg. 37042 (published on July 19, 1995) (the "Notice").

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Summary

Fuller-Jeffrey holds a license from the Commission that authorizes Fuller-Jeffrey to operate Class C2 commercial FM radio broadcast station KJJY on Channel 223C2, currently allotted to Ankeny, Iowa. In this proceeding, the Commission is considering Fuller-Jeffrey's proposal to amend the Table of Allotments for FM Broadcast Stations, Section 73.202(b) of the Commission's Rules and Regulations, 47 C.F.R. § 73.202(b) (1994), in order to remove the allotment of Channel 223C2 from Ankeny to West Des Moines, Iowa, and to modify Fuller-Jeffrey's license from the Commission for KJJY in order to change KJJY's city of license from Ankeny to West Des Moines.

In these Comments, Fuller-Jeffrey concedes that under the Commission's prevailing case law -- including Faye & Richard Tuck, Inc. (KBEC), ^{1/} RKO General, Inc. (KFRC), ^{2/} and Table of Allotments, FM Broadcast Stations (Elizabeth City, North Carolina and Chesapeake, Virginia), ^{3/} which were cited in the Notice in this proceeding -- the needs of West Des Moines for its own aural transmission service can be deemed to be satisfied by the complement of AM radio broadcast stations and FM radio broadcast stations that are licensed

^{1/} 3 FCC Rcd 5374 (1988).

^{2/} 5 FCC Rcd 3222 (1990).

^{3/} 9 FCC Rcd 3586 (Acting Chief, Allocations Branch, 1994).

to serve communities within the Des Moines, Iowa Urbanized Area, of which West Des Moines is a part.

Fuller-Jeffrey demonstrates in these Comments that under the Commission's precedents, especially including RKO General, Inc., *supra*, the needs of Ankeny for a local aural transmission service can also be deemed to be satisfied by the full complement of AM radio broadcast stations and FM radio broadcast stations that are licensed to serve communities within the Des Moines Urbanized Area, even though Ankeny is not actually located within that Urbanized Area.

Given the fact that the two communities at issue here -- West Des Moines and Ankeny -- are therefore deemed currently to enjoy an equal number of local aural transmission outlets to serve their needs, and further given the fact that the population of West Des Moines (39,387) is nearly twice the size of the population of Ankeny (21,485), a preferential arrangement of allotments would result from shifting the allotment of Channel 223C2 from Ankeny to West Des Moines, under the fourth priority ("other public interest matters") of the Commission's FM radio broadcast station channel allotment priorities and under case law.

Introduction

1. This proceeding began more than five years ago, when Fuller-Jeffrey submitted to the Commission a "Petition to Initiate Rule Making Proceeding" (the "Petition") on July 20, 1990. In the Petition, Fuller-Jeffrey requested the Commission to initiate a proceeding to amend the Table of Allotments in order to remove the allotment of Channel 223C2 from Ankeny to West Des Moines and to modify Fuller-Jeffrey's license for KJJY in order to change KJJY's city of license from Ankeny to West Des Moines. The Petition was premised upon the then-recently-adopted Section 1.420(i) of the Commission's Rules and Regulations, 47 C.F.R. § 1.420(i) (1989), which permitted licensees and permittees of FM radio broadcast stations under certain circumstances to have their licenses or construction permits modified in order to specify a different community of license in the course of a rule making proceeding to amend Section 73.202(b). See generally Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, Report and Order in MM Docket No. 88-526, 4 FCC Rcd 4870 (1989) ("Modification of Authorizations/New Community of License").

2. The Commission's staff returned Fuller-Jeffrey's Petition by a letter to Fuller-Jeffrey's counsel dated April 10, 1991. The letter pointed out that while the Petition had been pending before the Commission, the Commission had adopted a Memorandum Opinion and Order on reconsideration of the Report and Order in the Modification of Authorizations/New

Community of License proceeding, 5 FCC Rcd 7094 (1990) (the "Reconsideration Order"). The letter noted that in the Reconsideration Order, the Commission had developed certain criteria for applying Section 1.420(i) and that Fuller-Jeffrey's Petition failed to satisfy two of them.

3. In the first instance, the letter observed that the grant of Fuller-Jeffrey's Petition would deprive Ankeny of its sole local aural transmission service, which the Reconsideration Order had found to be presumptively contrary to the public interest. The letter also stated that because West Des Moines is located within the Des Moines Urbanized Area, West Des Moines might not be deserving of an additional channel allotment inasmuch as the Reconsideration Order questioned whether communities located within Urbanized Areas should be credited with all of the local aural transmission services licensed to all of the communities that comprise the Urbanized Area.

4. On May 13, 1991, Fuller-Jeffrey filed a Petition for Reconsideration of the Commission's staff's letter that had returned the Petition. In the Petition for Reconsideration, as supplemented on July 25, 1991 and on August 12, 1991, Fuller-Jeffrey pointed out that the removal of Channel 223C2 from Ankeny to West Des Moines would not deprive Ankeny of its sole local aural transmission service. Fuller-Jeffrey's Petition for Reconsideration, as supplemented, noted that on July 1, 1991 Class A commercial FM radio broadcast station KMXD, authorized to serve Ankeny, had commenced operation on Channel 292A. Therefore, one of the two bases for the Commission's staff's action returning Fuller-Jeffrey's Petition was no longer factually supportable.

5. Fuller-Jeffrey's Petition for Reconsideration contended that under the Commission's case law, Ankeny's needs for its own aural transmission outlet should be deemed to be satisfied by the full complement of aural services in the nearby Des Moines Urbanized Area, citing RKO General, supra. The Petition for Reconsideration argued that because Ankeny and West Des Moines should be presumed to receive equivalent levels of local aural transmission service, Channel 223C2 should be allotted to the more populous of the two communities, under the Commission's channel allotment priorities and case precedent. Since West Des Moines has a greater population than does Ankeny, Fuller-Jeffrey's Petition for Reconsideration concluded that removal of Channel 223C2 from Ankeny to West Des Moines would represent a preferential arrangement of allotments consistent with the Reconsideration Order. The Petition for Reconsideration was not opposed. ^{4/}

6. For a period of nearly four years, the Commission took no action on Fuller-Jeffrey's Petition for Reconsideration. ^{5/} Then, the Notice was released in July of this year. In principal part, the Notice questioned whether West Des Moines is entitled to claim a priority for a second local aural transmission outlet, ^{6/} given the fact that West Des Moines is located

^{4/} Indeed, up to this point in time, the only party to this proceeding has been Fuller-Jeffrey. That would change, of course, in the event that other parties elect to submit comments in response to the Notice.

^{5/} At one point during the four-year period, Fuller-Jeffrey's undersigned counsel was told by the Commission's staff that the Commission's entire file in the Ankeny/West Des Moines matter had been lost. Counsel was asked to resubmit the pertinent items from the record. On June 20, 1994, counsel submitted a letter to the Commission's Acting Secretary with copies of all of the pertinent items in the record of the proceeding.

^{6/} Class A noncommercial, educational FM radio broadcast station KWDM currently serves West Des Moines on Channel 204A.

within the Urbanized Area. Citing, inter alia, Tuck, RKO General, the Reconsideration Order, and Elizabeth City, North Carolina, supra, the Notice stated that West Des Moines may be presumed to have its needs for local aural transmission service fulfilled by all of the aural services licensed to communities within the Des Moines Urbanized Area. The Notice did not acknowledge the argument set forth in Fuller-Jeffrey's Petition for Reconsideration, to the effect that under those same authorities -- especially RKO General -- Ankeny is likewise presumed to have its need for local aural transmission service fulfilled by all of the aural services licensed to communities within the Des Moines Urbanized Area, even though Ankeny is not technically a part of that Urbanized Area. The Notice requested comments on the question whether the removal of Channel 223C2 to West Des Moines from Ankeny would constitute a preferential arrangement of allotments. These Comments are responsive to that aspect of the Notice.

Argument

7. Statement of Intention to Apply for Authorization. As a preliminary matter, and in response to Paragraph 6 of the Notice, Fuller-Jeffrey hereby states its intention to apply promptly to the Commission for an authorization to modify Fuller-Jeffrey's license from the Commission for KJJY, in order to specify West Des Moines rather than Ankeny as KJJY's city

of license, in the event that the Commission shall adopt the proposed amendment to Section 73.202(b) as set forth in the Notice.^{2/}

8. West Des Moines's Needs for Local Aural Transmission Service Are Deemed to be Satisfied by All of the Services Licensed to Communities within the Des Moines Urbanized Area. Fuller-Jeffrey concedes that under the standards of Tuck, RKO General, the Reconsideration Order, and Elizabeth City, North Carolina, the need on the part of West Des Moines for its own aural transmission service may be deemed to be satisfied by the complement of AM radio broadcast stations and FM radio broadcast stations currently authorized by the Commission to serve communities that make up the Des Moines Urbanized Area.

9. Under Commission Case Law, Ankeny's Needs for Local Aural Transmission Service Are Likewise Deemed to be Satisfied by All of the Services Licensed to Communities within the Des Moines Urbanized Area. As Fuller-Jeffrey argued in the Petition for Reconsideration, Ankeny -- though not actually a part of the Des Moines Urbanized Area -- should be presumed to have its needs for its own aural transmission service satisfied by the complement of AM radio broadcast stations and FM radio broadcast stations that are currently authorized by the Commission to serve communities within that Urbanized Area. That

^{2/} Fuller-Jeffrey does not propose to change KJJY's authorized antenna site or otherwise to modify KJJY's transmitting facilities in connection with the proposed change in KJJY's city of license. Therefore, Fuller-Jeffrey believes that the Commission's authorization for KJJY to implement the amendment to the Table of Allotments proposed in the Notice may be obtained as a simple modification of Fuller-Jeffrey's license from the Commission for KJJY.

presumption arises from applying the standards of the Commission's precedents, particularly RKO General, to Ankeny's demographic, economic, political, and commercial characteristics. What follows in these Comments is an application to Ankeny of the criteria developed in the Commission's case law for determining when a smaller suburban community, though nominally independent of a nearby metropolitan area, is presumed to have its needs for local aural transmission service fulfilled by the services in the metropolitan area.

a. Size and Proximity of the Suburb and the Central City. One of the three principal criteria developed in Tuck and followed in the subsequent cases is the examination of the relative size and proximity of the suburb (in this case, Ankeny) and the nearby central city (in this case, Des Moines, Iowa, the largest community within the Des Moines Urbanized Area). Ankeny's population is 21,485.^{8/} The population of Des Moines is 193,187.^{9/} Ankeny's population is thus about one-ninth the size of Des Moines's population. In RKO General, the Commission determined that Richmond, California did not have a need for a local aural transmission service that was separate and independent from the services provided by the stations in the San Francisco-Oakland, California Urbanized Area. In examining the factor of relative size, the Commission noted that Richmond was one-ninth the size of San Francisco. 5 FCC Rcd at 3223, Para. 12.

^{8/} Source: 1994 Special Census.

^{9/} Source: 1990 U.S. Census.

According to the Engineering Statement of Suffa and Cavell, Inc., Fuller-Jeffrey's consulting broadcast engineers in Fairfax, Virginia, which is appended to these Comments as Appendix 1, Ankeny at its closest point is approximately only one-half of a mile from the nearest part of the Des Moines Urbanized Area. In RKO General, while the Commission found that Richmond was within the San Francisco-Oakland Urbanized Area, the Commission noted that Richmond was 16 miles from San Francisco. Id. ^{10/}

b. Signal Population Coverage. The second principal criterion developed in Tuck and followed in subsequent cases is the degree to which the signal(s) of the radio station(s) at issue provide coverage of the larger, nearby metropolitan area in addition to coverage of the specified suburban community. The Engineering Statement of Suffa and Cavell, Inc. appended to these Comments as Appendix 1 establishes that there are a total of 24 aural facilities (nine AM radio broadcast stations and 15 FM radio broadcast stations) that provide service to the general area that includes both Ankeny and the Des Moines Urbanized Area. Of those 24 stations, 18 (including KJJY) cover all of both Ankeny and the Des Moines Urbanized Area with a signal having a predicted field intensity of at least 5 mV/m (for AM radio broadcast stations) or 70 dBu (for FM radio broadcast stations), i.e., a so-called "city-grade" or "principal-

^{10/} In Tuck, the Commission declared that a community lying outside of an Urbanized Area could still be presumed to have its needs for local aural transmission service fulfilled by the stations in a nearby Urbanized Area. 3 FCC Rcd at 5380, Para. 49. The Commission held that the burden of proof for such a presumption would be higher than if the specified community were within the Urbanized Area. 3 FCC Rcd at 5380, Para. 51. Thus, the fact that Ankeny lies outside of the Des Moines Urbanized Area, whereas Richmond is within the San Francisco-Oakland Urbanized Area, is not itself a dispositive distinction.

community" signal. Another three stations cover some part of both Ankeny and the Urbanized Area with their city-grade signals. Three other stations cover some part of the Urbanized Area, but no part of Ankeny, with their city-grade signals. If the 60 dBu field-intensity signal contours (representing "interference-free," but not "city-grade," service) of FM radio broadcast stations are considered, 21 of the 24 stations cover all of both Ankeny and the Urbanized Area, one station covers some percentage of both Ankeny and the Urbanized Area, and two stations cover some part of the Urbanized Area but no part of Ankeny.

It is therefore clear that for the vast majority of aural services licensed to communities in the general area, coverage of both Ankeny and the Urbanized Area in their entirety is obtained, and there is a single, undifferentiated radio service "market" consisting of both the Urbanized Area and Ankeny. ^{11/}

c. Interdependence Between the Smaller Community and the Central City of the Metropolitan Area. The third major criterion developed in Tuck and followed in its progeny is the matter of the interdependence between the specified community and the larger, nearby metropolitan area. The Commission examines eight discrete factors in assessing the question of interdependence, as follows:

^{11/} As noted in footnote 7, supra, Fuller-Jeffrey does not propose to change KJJY's antenna site or facilities in connection with this proceeding. Accordingly, both Ankeny and the Urbanized Area -- all parts of which currently receive service of city-grade quality or better from KJJY -- will continue to do so in the event that the proposal in the Notice is adopted by the Commission. That is to say, there will be no change in KJJY's signal population coverage.

(i) The Extent to Which Community Residents Work in the Larger Metropolitan Area, Rather than the Specified Community. Fuller-Jeffrey has not been able to establish the exact number of Ankeny residents who are counted as being in the labor force. However, the Iowa Department of Economic Development cites a population of 607,921 persons within a 50-mile radius of the Des Moines Urbanized Area. Of that number, 248,000 (representing 41 % of the total population within such radius) comprise the work force. Applying that same 41 % proportion of work-force-population-to-total-population to Ankeny's total population of 21,485 persons would yield a work force in Ankeny of approximately 8,800 persons. According to the 1990 Census of Transportation Planning Package, provided by the Des Moines Area Transportation Planning Committee, 6,699 persons live in Ankeny and work outside of Ankeny. Of that number, 5,405 persons work in the Urbanized Area communities of Des Moines (4,509), Clive (143), Urbandale (231), West Des Moines (498), and Windsor Heights (24).

These statistics demonstrate that the vast majority of persons in Ankeny's labor force commute to workplaces outside of Ankeny and within the Urbanized Area.

(ii) Whether the Smaller Community Has Its Own Newspaper or Other Media that Cover the Community's Local Needs and Interests. There is no daily newspaper in Ankeny. The predominant daily newspaper in the region is the Des Moines Register. There is a weekly newspaper in Ankeny, known as Ankeny Today, which publishes on Wednesdays. In RKO General, the Commission found it significant that Richmond was

without its own daily newspaper. 5 FCC Rcd at 3224, Para. 17. There are no television stations licensed to serve Ankeny. Four television stations are licensed to serve Des Moines: KCCI-TV, Channel 8 (affiliated with CBS, Inc.); KDSM-TV, Channel 17 (affiliated with Fox Broadcasting Company); WHO-TV, Channel 13 (affiliated with National Broadcasting Company, Inc.); and KDIN-TV, Channel 11 (a noncommercial, educational television station). A fifth station, licensed to Ames, Iowa (some 20 miles farther to the north of the Des Moines Urbanized Area than is Ankeny) is generally regarded as competitive in the Des Moines market: WOI-TV, Channel 5 (affiliated with Capital Cities/ABC, Inc.). There is a single cable television system serving Ankeny and the Des Moines Urbanized Area as well as other surrounding communities, and it is operated by an affiliate of Tele-Communications, Inc. As previously noted, two FM radio broadcast stations (KJYY and KMXD) are licensed to serve Ankeny. There are no AM radio broadcast stations licensed to serve Ankeny.

(iii) Whether the Community Leaders and Residents Perceive the Specified Community as Being an Integral Part of, or Separate from, the Larger Metropolitan Area. Appendix 2 to these Comments includes statements (each dated September 1, 1995) from three leading Ankeny businesspersons: Rod Lein of Lein Construction in Ankeny; Dean Lange of Lange Tire and Automotive Center in Ankeny; and Bruce Draper of the Ankeny Dairy Queen. Their statements are as follows:

Lein: "The communities in the Greater Des Moines area all work together. That's the reason we are experiencing the growth we are seeing here. We refer to Des Moines and Ankeny as the 'Golden Circle Area'."

Lange: "Employment and business goes both ways between Ankeny and Des Moines. We're just part of Des Moines. The only thing that separates us is real estate."

Draper: "Ankeny is definitely a suburb of Des Moines."

It is clear that leading citizens of Ankeny do not perceive themselves to be a part of a community that is separate and distinct from the Greater Des Moines metropolitan area.

(iv) Whether the Specified Community Has Its Own Local Government and Elected Officials. Ankeny is an incorporated city within the boundaries of Polk County, Iowa. Ankeny has its own elected city councillors and mayor and an appointed city manager.

(v) Whether the Smaller Community Has Its Own Telephone Book Provided by the Local Telephone Company or Zip Code. U.S. West is the local telephone company service provider. It publishes a primary telephone directory entitled, "Des Moines and Surrounding Communities." Its approximately 600 white pages of residential and business telephone numbers contain listings for Ankeny residences and businesses and well as listings for businesses and residences in other communities within the Greater Des Moines area. There may

be a smaller regional telephone book specifically directed to listings for businesses and residences in the northern Des Moines suburbs, including Ankeny, but Fuller-Jeffrey has not been able to confirm the existence of such a book. Ankeny has its own zip code (50021).

(vi) Whether the Community Has Its Own Commercial Establishments, Health Facilities, and Transportation Systems. According to the State of Iowa Department of Finance and Revenue, as of 1993 Ankeny had 527 businesses operating within its boundaries. Ankeny does not have its own public transportation system. The Metro Transit Authority serves Ankeny with daily bus service in and out of the central city of Des Moines. Ankeny relies upon the Des Moines International Airport for commercial airline service. The next closest terminal for scheduled commercial air passenger service is in Kansas City, about 175 miles to the south. On its southern boundary, Ankeny has a small airfield for private aircraft. Ankeny does not have a hospital and is dependent upon several large medical centers operating within the boundaries of the City of Des Moines.

Thus, while Ankeny has a complement of local businesses, Ankeny is dependent upon the central city of Des Moines for transportation and hospital facilities and services.

(vii) The Extent to Which the Specified Community and the Central City Are Part of the Same Advertising Market. The Arbitron Company -- which, as the Commission knows, provides the only radio broadcast station audience survey reports that are routinely available throughout the country -- classifies the Des Moines Metro market as including

the Counties of Polk, Warren, Dallas, and Story, Iowa. Ankeny is located in Polk County. The City of Ames, Iowa (which is the central city of Story County) is located some 20 miles farther north of Des Moines than Ankeny and well away from the Des Moines Urbanized Area; yet even Ames is included in the Metro by Arbitron. The A. C. Nielsen Company, which measures television viewing, defines the Total Survey Area of the Des Moines-Ames "Designated Market Area" (or "DMA") as consisting of 33 counties in Iowa (including Polk County, where Ankeny is situated, and all of the Des Moines Urbanized Area) and one county in Missouri. The Metro portion of Nielsen's Des Moines-Ames DMA consists of Polk, Warren, Dallas, and Story Counties, which encompasses both Ankeny and the Urbanized Area. As noted in Suffa and Cavell, Inc.'s Engineering Statement (Appendix 1 to these Comments), Ankeny is located within the Des Moines Standard Metropolitan Statistical Area. Reference is also made to the fact that 75% (18 of 24) of the radio stations serving the general area cover all of both Ankeny and the Urbanized Area with their predicted city-grade signals.

It is apparent that from the perspective of advertisers and those interested in media purchases in the area, there is no distinction between Ankeny and the Des Moines Urbanized Area.

(viii) The Extent to Which the Specified Community Relies on the Larger Metropolitan Area for Various Municipal Services Such as Police, Fire Protection, Schools, and Libraries. Ankeny has its own police, fire protection, schools, and libraries.

10. A review of the foregoing yields the conclusion that Ankeny, though not physically a part of the Des Moines Urbanized Area, should be presumed to have its needs for local aural transmission service satisfied by the radio broadcast stations that are licensed by the Commission to serve the communities within that Urbanized Area. The ratio of Ankeny's population to that of the central city of Des Moines is identical to the ratio of Richmond's population to that of the central city of San Francisco in RKO General, where the Commission held that Richmond's needs for local aural service were deemed satisfied by the stations serving the San Francisco-Oakland Urbanized Area. Though not a part of the Des Moines Urbanized Area, Ankeny is far closer geographically to that Urbanized Area (one-half mile, at the closest point) than Richmond is to San Francisco (16 miles). The city-grade signal coverage of the vast majority of the radio stations serving the general area (including KJJY) encompasses all of both Ankeny and the Urbanized Area, without differentiation. Of the eight factors used to assess the interdependence criterion, three strongly suggest that such interdependence exists: the majority of Ankeny workers commute to jobs within the Urbanized Area; community leaders perceive no basis for distinguishing Ankeny from the greater metropolitan area; and the advertising market includes Ankeny in the Des Moines Metro for both television and radio media purchases. Two of the other factors support a finding of Ankeny's independence: Ankeny has its own local government and elected officials; and Ankeny has its own police, fire protection, schools, and libraries. ^{12/} The remaining three factors are inconclusive: while Ankeny has two local radio stations and a weekly newspaper, it has no television stations, no daily newspaper (a lack found

^{12/} Both of those factors also favored a finding of Richmond's independence from the San Francisco-Oakland Urbanized Area in RKO General, supra. 5 FCC Rcd at 3224, Para. 16. However, the Commission declined to make such a finding.

significant in RKO General), and no cable television system of its own; although Ankeny has its own zip code, the local telephone company includes Ankeny listings in the "Des Moines and Surrounding Communities" directory (in RKO General, the Commission placed significance on the fact that Richmond lacks its own telephone directory, 5 FCC Rcd at 3224, Para. 17); and while Ankeny has many local commercial establishments, it is without its own hospital or transportation system (in RKO General, the Commission likewise noted that Richmond has many commercial establishments but lacks its own transportation system and hospital facilities, 5 FCC Rcd at 3224, Para. 18) . A majority (three) of the five factors that yield a conclusive indication on the issue of Ankeny's interdependence with the Urbanized Area supports a finding of such interdependence.

11. Since Ankeny and West Des Moines Are Presumed to Have the Same Number of Local Aural Transmission Services, Commission Case Law Favors Allotting Channel 223C2 to West Des Moines as the More Populous of the Two Communities. Pursuant to the foregoing analysis, Ankeny and West Des Moines are presumed to have their needs for local aural transmission outlets satisfied by the full complement of AM radio broadcast stations and FM radio broadcast stations currently authorized by the Commission to serve communities within the Des Moines Urbanized Area. In other words, the two communities have identical local transmission service at the present time. Since West Des Moines's population of 39,387 persons^{13/} is nearly double that of Ankeny's population of 21,485 persons, under the Commission's case

^{13/} Source: July 1, 1995 preliminary estimate based upon 1995 Special Census.

law, ^{14/} the fourth priority for FM radio broadcast station channel allotments (i.e., "other public interest matters") ^{15/} suggests that a preferential arrangement of allotments would result from allotting the channel at issue here to West Des Moines, as the more populous of the two communities.

WHEREFORE, for the reasons hereinbefore stated, Fuller-Jeffrey respectfully urges the Commission to adopt the proposed amendment to Section 73.202(b) set forth in the Notice.

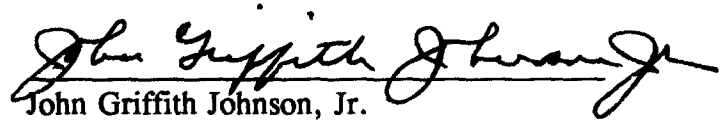
^{14/} See, e.g., Table of Allotments, FM Broadcast Stations (Seymour and Pigeon Forge, Tennessee), 2 FCC Rcd 2016 (Chief, Policy & Rules Division, 1987).

^{15/} See Revision of FM Assignment Policies and Procedures, Second Report and Order in BC Docket No. 80-130, 90 FCC 2d 88 (1982), recon. den., 56 Rad.Reg.2d (P&F) 448 (1984). The four priorities are: (1) First full-time aural service; (2) Second full-time aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3). Id., 90 FCC 2d at 91.

Respectfully submitted,

**FULLER-JEFFREY BROADCASTING
CORPORATION OF GREATER DES MOINES**

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September 5, 1995

APPENDIX 1

ENGINEERING STATEMENT

prepared for
Fuller-Jeffrey Broadcasting Corporation
Des Moines, Iowa

This Engineering Statement has been prepared on behalf of Fuller-Jeffery Broadcasting Corporation of Greater Des Moines (hereinafter "Fuller-Jeffery"), licensee of KJJY, channel 223 C2 in Ankeny, Iowa.

A study to determine the number of aural services which serve both Ankeny and the Des Moines Urbanized Area¹ was performed. The results of this study are presented in Figures 1, 1A, and 2. Figure 1 presents the information on FM stations providing "City Grade" (70 dB μ) coverage, Figure 1A presents the 60 dB μ contours for the same FM stations, and Figure 2 presents the information on AM stations providing a signal strength contour of at least 5.0 mV/m.

In preparing the maps of Figures 1, 1A, and 2, pertinent data on each station were extracted from the FCC's engineering databases. For AM stations, these included the radiation efficiency, directional antenna data (where appropriate), and geographic coordinates. The distances to the 5 mV/m contours were then computed using a digitized version of the FCC's estimated soil conductivity map, Figure M-3 and a computer program which simulates the FCC's AM groundwave propagation curves.

¹ The Des Moines Urbanized Area as defined by the U.S. Department of Commerce, Bureau of the Census, 1980 Census data.